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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/311,952	05/18/1999	HIDEKI MURAYAMA	501.34424CX1	1937

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EXAMINER

NGUYEN, HAI V

ART UNIT	PAPER NUMBER
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2152

DATE MAILED: 03/26/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/311,952

Applicant(s)

MURAYAMA ET AL.

Examiner

Hai V. Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 May 1999.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 88-103 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 88-103 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

1. The numbering of claims is not in accordance with 37 CFR 1.126 which requires the original numbering of the claims to be preserved throughout the prosecution. When claims are canceled, the remaining claims must not be renumbered. When new claims are presented, they must be numbered consecutively beginning with the number next following the highest numbered claims previously presented (whether entered or not).

misnumbered claims 2-17 have been renumbered 88-103 claims respectively.

2. Claims 88-103 are presented for examination.

3. The Examiner acknowledges the cancellation of **claims 1-87** without prejudice, as well as newly added claims 38-79 and will examine them accordingly. **Claims 88-103** are presented for examination.

4. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

5. A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

6. Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

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7. **Claims 88-103** are rejected under the judicially created doctrine of double patenting over **claims 1-87** of Murayama et al. U. S. Patent No. **5,935,205** since the claims, if allowed, would improperly extend the "right to exclude" already granted in the patent.

The subject matter claimed in the instant application is fully disclosed in the patent and is covered by the patent since the patent and the application are claiming common subject matter. Although the conflicting claims are not identical, they are not patentably distinct from each other because the context of the claimed invention is the same as the context of the cited claims of the U.S. Patent **5,935,205**.

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 (e) that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

9. **Claims 88-89, 91-94, 96, 98-103** are rejected under 35 U.S.C. 102(e) as being anticipated by Akizawa et al. patent no. **5,548,724**.

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10. As to claim 88, Akizawa teaches the invention as claimed, including in a computer system having a plurality of computers connected to each other (Fig. 1, 100, 110, 120, 130) and a plurality of shared memory devices (Fig. 1, 700, 710, 720, 730), each of said plurality of shared memory devices being coupled to one of said plurality of computers, each of said plurality of computers comprising:

- a processor for issuing a request to said plurality of shared memory devices (a file storage device identifying program 603 for delivering information on the file storage device to the file storage device access program 604, col. 5, lines 20-25); and

- a memory request processing section for processing request to said plurality of shared memory devices (Fig. 2, file control program 501), wherein said memory request processing section processes said request according to the requested shared memory device is connected to said computer, and sends said request to another computer according as the requested shared memory device is connected to said another computer (col. 5, lines 20-35).

11. As to claim 89, Akizawa teaches wherein said memory request processing section further comprises:

- a memory for storing structural definition information which describes a structure of said computer system (Fig. 3, box 510, File attribute table, Load attribute table); and

- a request judging section for judging which shared memory device is requested by said request according to said structural definition information (Fig. 3, box 603).

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12. As to claim 91, Akizawa teaches wherein said structural definition information includes information indicating a correspondence between each of said plurality of shared memory devices and identifiers (Figs. 5, 6).

13. As to claim 92, Akizawa teaches wherein said memory request processing section comprises:

a remote processing request section for issuing a remote request to said another computer to access said shared memory device connected to said another computer (Fig. 14, box 301 remote file access processing program).

14. Claims 93-94, 96, 98-99 have similar limitations as claims 88-89, 89, 91-92; therefore, they are rejected under the same rationale.

15. Claims 100-103 are computer-readable medium claims corresponding to the method in claims 88, 89, 91, 92; therefore, they are rejected under the same rationale.

16. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

17. Claim 90 is rejected under 35 U.S.C. 103(a) as being unpatentable over Akizawa et al. patent no. **5,548,724** as applied to claims 88-89 above, and further in view of the well-known feature of password.

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18. As to claim 90, Akizawa teaches the invention substantially as discussed above; however, Akizawa does not explicitly teach password included in an structural definition information to allow access to the shared memory device.

Office Notice is taken that using password to access resource is well-known in data processing art.

It would been obvious to one of ordinary skill in the data processing art at the time of the invention to combine the teachings of Akizawa with the well-known feature to control Akiazwa's access to the requested shared memory device because it would allow user to secure the file resource from unauthorized access.

19. Claims 95, 97 have similar limitations as claim 90; therefore, they are rejected under the same rationale.

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20. Further references of interest are cited on Form PTO-892, which is an attachment to this action.

21. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hai V. Nguyen whose telephone number is 703-306-0276. The examiner can normally be reached on 7:00-3:30 Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mark Rinehart can be reached on 703-305-4815. The fax phone numbers for the organization where this application or proceeding is assigned are 703-746-7240.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3230

Hai V. Nguyen
Art Unit 2152
March 25, 2002


LE HIEN LUU
PRIMARY EXAMINER